IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 6TH JULY 2007 / 15TH ASHADHA 1929

Bail Appl..No. 3850 of 2007()

CRIME NO.119/07 OF THE ALAKODE POLICE STATION, KANNUR.

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PETITIONERS/ACCUSED:

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1. SHINTO THOMAS, S/O. THOMAS,
   AGED 20 YEARS, PULLUVELIL HOUSE, VELLAD AMSOM,
   MELARAMTHATTU, PATHANPARA, TALIPARAMBA TALUK.

2. JAIMON THOMAS S/O. THOMAS,
   AGED 28 YEARS, VARIKKAPLAKAL HOUSE, VELLAD AMSOM,
   MELARATHATTU, PATHANPARA, TALIPARAMBA TALUK.

BY ADV. SRI.P.BABU

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 06/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A.NO. 3850 OF 2007

Dated this the 6th day of July, 2007

ORDER

Application for anticipatory bail. The petitioners face allegations under Secs.324 and 326 of the IPC. The alleged incident took place on 29/4/07. The First Information Statement was lodged only on 5/5/07. The injury suffered is a grievous hurt - loss of two teeth of the 52 year old de facto complainant. Though the incident allegedly took place on 29/4/07, he did not get himself examined by a Doctor till 7.35 p.m. on the next day. In the meanwhile, another crime has been registered wherein it is alleged that the de facto complainant had attacked the 1st petitioner herein. That incident allegedly took place on 30/4/07. The 1st petitioner was discharged from the hospital on 2/5/07. It is long later that he has filed a complaint before police on 5/5/07. The learned

counsel for the petitioners submits that the allegations against the petitioners are totally false and are invented and manipulated in order to create a defence in the incident which took place on 30/4/07 in respect of which Crime No.116/07 has been filed against the de facto complainant. In these circumstances, it is submitted that the petitioners may not be subjected to the trauma of arrest and incarceration in prison on such allegations.

2. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the weapon of offence – a torch, has not been recovered and, in these circumstances, notwithstanding the delay in the de facto complainant going to the Doctor and the delay in his lodging the complaint as also the fact that another crime against the de facto complainant had been registered in between, anticipatory bail may not be granted to the petitioners.

3. I have considered all the relevant inputs. A more detailed discussion is not necessary. I am satisfied that this is a fit case where appropriate directions can be issued under Sec.438 of the Cr.P.C. in favour of the petitioners subject to safeguards in the interests of a fair, efficient and expeditious investigation.

4. In the result, this petition is allowed. Following directions are issued under Sec.438 of the Cr.P.C:

(i) The petitioners shall appear before the learned Magistrate having jurisdiction at 11 a.m. on 13/7/07. They shall be released on regular bail on their executing bonds for Rs.25,000/- each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 14/7/07 and 15/7/07. During this period the Investigator shall be entitled to interrogate the petitioner in custody and effect recoveries, if any, necessary. Thereafter the petitioners shall make themselves available for interrogation before the Investigating Officer on all Mondays between 10 a.m. and 12 noon for a period of two months. Subsequently, as and when directed by the Investigating Officer in writing to do so.

(iii) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law as if those directions were not issued at all;

(iv) If the petitioners were arrested prior to their surrender on 13/7/07 as directed in clause (i) above, they shall be released on their executing bonds for Rs.25,000/- each without any sureties undertaking to appear before the learned Magistrate on 13/7/07.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge